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**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application Number: 09/981,000
Filing Date: December 03, 2001
Appellant(s): WEHMEYER, KEITH REYNOLDS

Reitseng Lin
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 1/8/2007 appealing from the Office action mailed 9/25/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct

**(4) Status of Amendments After Final**

The statement of the status of claims contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

Schein et al. (U.S. Patent No. 5,801,787)

Kaplan (U.S. Patent No. 6,058,430)

Sampsell (U.S. Patent No. 6,219,839)

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (U.S. Patent No. 5,801,787) in view of Kaplan (U.S. Patent No. 6,058,430).

Referring to claim 1, Schein discloses a stand-alone receiver for receiving analog program information including first program guide information (see cable box 16 in Figure 1 and Column 4, Lines 25-39 for receiving first program guide data from the signal received by the cable box 16), coupled to a stand-alone digital video receiver for

receiving digital program information including second program guide information (see DBS receiver 18 in Figure 1 and Column 4, Lines 25-39 for receiving second program guide data from the signal received by the DBS receiver 18).

Schein also discloses receiving first program guide information from a first signal source (see again Column 4, Lines 25-39).

Schein also discloses receiving the second program guide information from the stand-alone digital video receiver (see again Column 4, Lines 25-39), wherein the stand-alone digital video receiver receives the second program guide information from a second signal source (see the second signal source received by the DBS receiver 18 being a satellite dish 32 in Figure 1).

Schein also discloses integrating the first program guide information with the second program guide to form the combined program guide (see Column 4, Lines 40-54 for combining the program guide data from multiple sources).

Schein also discloses outputting data representative of the combined program guide to a display device (see Figure 2 and Column 4, Line 64 through Column 5, Line 7).

Although Schein discloses receiving Internet data from an Internet source (see Column 2, Lines 39-40 and Line 50), Schein fails to disclose that the stand-alone receiver also receives Internet data.

Kaplan discloses a stand-alone Internet receiver for receiving both Internet data and analog program information (see Figure 1 and Column 4, Lines 22-40).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the stand-alone cable box receiver, as taught by Schein, to further receive Internet information through the VBI of the analog signal received by the cable box (thereby providing an internet receiver), as taught by Kaplan, for the purpose of providing a user with economical, efficient and easy access to the Internet (see Column 3, Lines 14-15 of Kaplan).

Claim 2 corresponds to claim 1, where Schein further discloses that the stand-alone digital video receiver receives the second program guide information via a digital data stream, and the stand-alone Internet receiver receives the first program guide information via a vertical blanking interval of an analog signal (see Column 4, Lines 49-53).

4. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al. (U.S. Patent No. 5,801,787) in view of Kaplan (U.S. Patent No. 6,058,430) in further view of Sampsell (U.S. Patent No. 6,219,839).

Referring to claim 3, Schein and Kaplan disclose all of the limitations of claim 1, as well as Schein disclosing linking a communications input/output port of the stand-alone digital video receiver with a communications input/output port of the stand-alone (internet) receiver, wherein the linking step includes establishing a bus connection (see Column 4, Lines 2-6 for utilizing a bus interface connection for linking all of the components together), but fails to teach at least one of a high speed data bus or a low speed data bus.

Sampsell discloses a similar system for integrating program guide data together from different sources (see Figures 1 and 6) and also disclose that all of the components are connected together using an IEEE 1394 Firewire bus, therefore providing a high speed data bus that links all of the components together for communication (see Column 4, Lines 22-32).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the bus interface, as taught by the combination of Schein and Kaplan, using the IEEE 1394 bus interface, as taught by Sampsell, for the purpose of providing a high bandwidth interface used to transport audio/video signals in addition to the channel information and therefore allows detailed information related to the programming available from the peripheral to be mapped onto the EPG button selections (see Column 9, Lines 34-36 and Lines 52-55 of Sampsell).

Claim 4 corresponds to claim 3, where Sampsell inherently teaches, by the use of an IEEE 1394 bus interface, that when any of the components (including the digital video receiver) transmits data to another component in the system using a clock signal, the clock signal is required for any type of data bus interaction from one component to another to assure that the receiving device can interpret the transmitted data signal properly.

**(10) Response to Argument**

**A. Patentability of Claims 1-2 and 5**

Application argues that one of ordinary skill in the art would have absolutely no motivation to combine the references in the manner proposed by the Examiner. Applicant states that one of ordinary skill in the art would have absolutely no motivation to modify Schein using Kaplan in the proposed manner since such a modification would prevent cable box 16 of Schein from receiving program guide information via the VBI, and thereby at least partially defeat one of the primary objectives of Schein to use scan lines 10 through 20 of the VBI to receive internet data, as taught by Kaplan (see Column 4, Lines 35-41), would prevent cable box 16 from using those scan lines to receive program guide information. Applicant concludes that as a result, television schedule guide system 10 of Schein would be rendered at least partially inoperable for one of its primary objectives since cable box 16 would be unable to receive program guide information via the VBI.

The examiner disagrees, and notes that Kaplan teaches receiving not only Internet data, but further teaches that additional data along with the Internet data can be received and is used to *provide a descriptional, informational or promotional message to the viewer about the Internet site* ***associated with the broadcast***. This clearly provides evidence that Kaplan teaches that the VBI is capable of containing more than just Internet data, wherein the Internet data is simply a few ASCII characters of data, relative to the remaining data contained in the VBI message of Figure 2 (see Column 6, Lines 55-60 of Kaplan), therefore the addition of adding a few ASCII characters of

Internet data (as taught by Kaplan) to the VBI transmission (with electronic program guide data) of Schein would not render primary objectives of Schein inoperable.

Applicant further argues that the cited portion of the additional data contained in the VBI message of Kaplan is not *program guide data*. The examiner disagrees and notes that the descriptional, informational or promotional message is ***associated with the broadcast***, therefore since the information contained in the VBI with the Internet data contains descriptional data about the associated broadcast, Kaplan clearly teaches that the descriptional data represents electronic program guide data. Even further, Schein discloses an electronic program guide displaying not only Internet data, but further displays descriptional, informational and promotional messages about the Internet site associated with the broadcast (see Column 6, Lines 30-38 of Schein). Therefore, Schein clearly teaches that electronic program guide data displayed to a user consists of not only the classic programs and broadcast times for the programs, but further includes the Internet data and the descriptional, informational and promotional message about the Internet site associated with the broadcast.

The examiner further notes that the preamble of the claim recites that the stand-alone Internet receiver is for receiving Internet data and analog program information including first program guide information. These claim limitation do not require that the Internet data and electronic program guide be transmitted inside the VBI. Therefore, the examiner notes that Column 5, Lines 14-49 of Kaplan further teaches that a stand-alone Internet receiver can also receive Internet data over a standard telephone line

instead of the VBI of a television signal. The examiner notes that either the modification of the VBI or the addition of a modem to the cable box 16 of Schein would read on the claim limitations of a stand-alone Internet receiver for receiving Internet data and analog program information.

Applicant further argues that cable box 16 of Schein does not receive program guide information from DBS source/IRD box 18 and further argues that the cable box 16 of Schein does not integrate the first and second program guide information, as required by claim 1. The examiner note that nowhere in claim 1 requires that the stand-alone digital receiver sends second program information to the stand-alone Internet receiver, as well as requiring that the cable box 16 integrates the first and second program guide data to form a combined program guide.

The preamble states, "*In a stand-alone internet receiver for receiving internet data and analog program information including first program guide information,* ***coupled*** *to a stand-alone digital video receiver for receiving digital program information including second program guide information,* ***a method*** *for forming a combined program guide*"

Nowhere does the preamble recite that the Internet receiver receives program guide data from the digital video receiver. In general, the claim recites that one device is coupled to another and a method to combine program guide data is performed. Nowhere does the preamble recite which device performs the method, therefore, the claim limitations do not exclude the use of the coordinator (in communication with Internet receiver and digital video receiver) to perform the method of combining.

Clearly the coordinator 14 of Schein receives first program guide information from multiple sources including the DBS 18 and cable box 16 (see Column 4, Lines 49-53).

The claim further recites, "*integrating the first program guide information with the second program guide information to form the combined program guide*". Again, nowhere does the claim limitation require that the cable box 16 perform the integration step, as argued by Applicant. Therefore, the claim limitations do not exclude the use of the coordinator (in communication with Internet receiver and digital video receiver) to perform the method of combining.

**B. Patentability of Claims 3-4**

Applicant argues that Sampsell does not cure the deficiencies of Schein and Kaplan as argued by Applicant in section A. Therefore, see the examiner's rebuttal above regarding Applicant's arguments.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jason Salce

May 9, 2007

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